

AGENCY OF HUMAN SERVICES DEPARTMENT OF DISABILITIES, AGING AND INDEPENDENT LIVING

Patrick Flood, Commissioner

Report on Attendant Services Program Waiting List

Submitted to:
House Committee on Human Services
and
Senate Committee on Health and Welfare

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Introduction

This report is being submitted in response to the legislature's request (H.881, §151) that "The Department of Disabilities, Aging, and Independent Living shall assess what criteria would be most equitable for placing an individual on the waiting list for attendant care services. In addition to the current first-come, first-served basis, the department shall consider alternative criteria for placing individuals on the waiting list. No later than January 15, 2007, the department shall submit a report including the criteria considered, its analysis of the issues, and its recommendations for the criteria to be used to the house committee on human services and the senate committee on health and welfare."

Brief Description of the Attendant Services Program

The Attendant Services Program was created in 1980 and is intended to serve elders and adults with physical disabilities. This program provides personal care services for activities of daily living (examples: bathing and dressing) as well as instrumental activities of daily living (examples: shopping and housekeeping). It is the purpose of the Attendant Services Program to foster independence by paying, within the limits of available funds, for services for eligible adult Vermonters residing in settings where such services are not otherwise available. It is also the purpose of the Attendant Services Program to enable its participants to exercise as much control as they wish over the direction and provision of their attendant services.

Criteria Considered

In its deliberation, the Department reviewed the waiting list protocols for the Choices for Care waiver high needs group and for the moderate needs group. The high needs group protocol relies on the professional judgment of the waiver team to admit individuals with the most pressing needs as determined by their score on the following nine factors:

- Unmet needs for activities of daily living (ADL) assistance;
- Unmet needs for instrumental activities of daily living (IADL) assistance;
- Behavioral symptoms;
- Cognitive functioning;
- Formal support services;
- Informal supports;
- Date of application;
- Need for admission to or continued stay in a nursing facility; and
- Other risk factors, including evidence of emergency need.

The moderate needs group waiting list protocol is a "first-come, first served basis", similar to the current ASP waiting list approach.

Process

The Department received input from Attendant Services Program participants through the Eligibility Committee. A meeting was held with the Committee in August, 2006, at which time the bill, the current process, history, issues, options, and members' recommendations were discussed. Written feedback was requested and a mailing was sent to members not present at the meeting to obtain their input. The Department also solicited input from the DAIL Advisory Board on November 9, 2006, which is comprised of consumers, providers, and advocates.

It is important to note that this issue has been given considerable thought and attention several times before in the history of the Attendant Services Program. In 1980, at the creation of the program, all the variables were considered (e.g., risk of losing an independent living situation or entering a nursing home, severity of a disability, financial ability to pay for attendant care independently, availability of family to provide care, age, chronological placement on the waiting list). The decision was made that to use any of the criteria other than chronological placement on the waiting list required making very subjective decisions, with different criteria having different weight depending on the particular circumstances of each individual applicant. Those involved in the beginning of the program felt that the chronologically based waiting list was the fairest, least biased way to approach the matter because for every criterion considered, there were instances where the criteria would not be fair or equitable. Whether it is risk of loss of independence or severity of disability, the subjectivity of the assessments involved made stakeholders uncomfortable. Every time program changes have been proposed over the last twenty-six years, there has been a wide variety of input including representatives from COVE, Vermont Coalition for Disability Rights (VCDR), Vermont Center for Independent Living (VCIL), Vermont Legal Aid, Protection and Advocacy, etc. Each time the decision has remained the same, to manage the waiting list on a chronological basis.

Analysis

Apparently, the concern about the current waiting list protocol was raised by perhaps only one Attendant Services Program applicant who was frustrated by the current process of moving up the waiting list. The chronological approach to the waiting list (admitting eligible applicants to the program as funds become available, in the order in which they apply) has been in place since the inception of the program and each time it has been re-considered the stakeholders have concluded that this approach remains the most equitable. We are committed to listening to our stakeholders, in particular the participants, when making changes to the program regulations, policies, or procedures. The Eligibility Committee and the Department diligently and thoughtfully reviewed this complex issue and tried to arrive at any new or creative options. The feedback the Department received clearly upheld continuing the current approach while acknowledging that there may be times when a variance may be appropriate. The Department's conclusion (see below) reflects these values and participants' recommendations.

It is also important to note that over the last year the Department has improved the screening process of applicants to the program, which has significantly reduced the waiting list. The waiting list represents only those applicants eligible for services who are actually waiting for funds to become available. As of November 3, 2006, there were only 9 people waiting for general fund attendant services and 0 individuals waiting for Medicaid attendant services, which is an entitlement program. This represents a significant reduction from the past when 200

individuals were on the waiting list with a two-year wait for services. In addition to clarifying that people on the waiting list are actually eligible for services, the implementation of the Choices for Care program has also contributed to the reduction in the individuals waiting for services, as often, individuals may be eligible for both programs.

Conclusions

The Department concludes that the following protocol be followed, and relevant regulatory changes be made, regarding the waiting list for the Attendant Services Program:

- 1. Continue to maintain the waiting list on a chronological basis;
- 2. Establish criteria to move individuals up the list based on special circumstances. In defining special circumstances, we recommend being consistent with the definition contained in the Choices for Care program manual for the high need group. Special circumstances include a critical need due to one of the following:
 - a. Individual's health condition shall worsen if services are not provided or if services are discontinued; or.
 - b. Individuals whose health and welfare shall be at imminent risk if services are not provided or if services are discontinued.
- 3. Review of the waiting list every 90 days by the Attendant Services Program Director to determine if the needs or circumstances of the individuals on the list have changed.

Under number 2 above, the Eligibility Committee will review requests for consideration of special circumstances on an individual basis and provide a recommendation to the Department based on consideration of factors mentioned above. The Department shall make the final decision to grant an exception based on special circumstances.

These conclusions respect the strongly expressed wishes of the program's participants to continue the list on a chronological basis while recognizing the need to be responsive to individual circumstances.

Attendant Services Program Data Fiscal Year 2006

Applications Processed: 147 **Applications Denied:** 106 Did not meet minimum ADL needs and were denied 63 15 Had needs met by other services Withdrew for other reasons 12 3 Other (usually unable to contact them by phone or mail) 11 Died 1 Moved out of State

Misuse of ASP Funds by participant and attendant so were denied readmission

316

Applications Approved: 22

People Served

1

16 Medicaid program

6 General Funding program

after new application

Number Terminated: 50

Number on Wait List: 19 (as of June 30, 2006); 9 (as of November 3, 2006)

Turnover Rate: 17%

Average hours awarded/person: 5.25 hours/person/day